

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE ENROLLED ACT No. 202

AN ACT to amend the Indiana Code concerning financial institutions.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 28-7-1-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 0.5. The following definitions apply throughout this chapter:

- (1) "Automated teller machine" (ATM) means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized individuals.
- (2) "Branch office" means an office, agency, or other place of business at which deposits are received, share drafts are paid, or money is lent to members of a credit union. The term does not include:
  - (A) the principal office of a credit union;
  - (B) the principal office of a credit union affiliate;
  - (C) a branch office of a credit union affiliate;
  - (D) an automated teller machine; or
  - (E) a night depository.
- (3) "Credit union" is a cooperative, nonprofit association, incorporated under this chapter, for the purposes of educating its members in the concepts of thrift and to encourage savings among its members. A credit union should provide a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to use and control their own money in order to improve their economic and social condition.

SEA 202+



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- (4) "Department" refers to the department of financial institutions.
- (5) "Surplus" means the credit balance of undivided earnings after losses. The term does not include statutory reserves.
- (6) "Unimpaired shares" means paid in shares less any losses for which no reserve exists and for which there is no charge against undivided earnings.
- (7) "Related credit union service organization" means, in reference to a credit union, a credit union service organization in which the credit union has invested under section 9(4)(J) of this chapter.
- (8) "Premises" means any office, branch office, suboffice, service center, parking lot, real estate, or other facility where the credit union transacts or will transact business.
- (9) "Furniture, fixtures, and equipment" means office furnishings, office machines, computer hardware, computer software, automated terminals, and heating and cooling equipment.
- (10) "Fixed assets" means:
- (A) premises; and
  - (B) furniture, fixtures, and equipment.
- (11) "Audit period" means a twelve (12) month period designated by the board of directors of a credit union.
- (12) "Community" means:**
- (A) a second class city;**
  - (B) a third class city;**
  - (C) a town;**
  - (D) a county other than a county containing a consolidated city;**
  - (E) a census tract;**
  - (F) a township; or**
  - (G) any other municipal corporation (as defined in IC 36-1-2-10).**

SECTION 2. IC 28-7-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) The membership of credit unions shall be clearly and specifically identified. The membership of a credit union shall be limited to one (1) or more qualified groups of persons, immediate family members of the persons in the qualified group or groups, and organizations of those persons. For purposes of this section, a qualified group consists of:

- (1) persons having a common bond of occupation, trade, or professional association;
- (2) members of a labor organization;
- (3) members of a church;



(4) persons engaged in a common trade or profession within a well defined geographical location;

(5) employees of the credit union; **or**

(6) persons who are members of a farm bureau cooperative, or other farm bureau organization, and who have subscribed to one (1) or more shares; **or**

**(7) persons who reside or are employed within a community.**

**(b)** A credit union may expand its membership with an additional qualified group or groups upon prior approval of the department.

~~(b) A credit union may also be organized by persons living within a well defined neighborhood, community, or rural district, as determined by the department in accordance with the following criteria:~~

~~(1) The community to be served is politically or geographically well defined;~~

~~(2) The total population of the community does not exceed thirty-five thousand (35,000);~~

~~(3) The economic feasibility of serving the community is adequately supported;~~

~~(4) Community support for the credit union is adequately proven;~~

~~(5) Other credit unions within the community are specifically excluded from the application or request;~~

~~(6) The character, qualifications, and experience of the officers and management of the credit union or the incorporators of the proposed credit union are found to be satisfactory with the department;~~

~~(c) A credit union organized or reorganized under subsection (b) may not further expand its field of membership by adding additional qualified groups unless the department finds that a merger, under section 33 of this chapter, is necessary to prevent the insolvency of the credit union;~~

SECTION 3. IC 28-7-1-17, AS AMENDED BY P.L.62-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. When making an application, a member shall state the security offered. Loans may be dispersed upon written approval by a majority of the credit committee or a loan officer. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, providing such appeal is authorized by the bylaws.

(b) Loans to members may be made only under the following terms and conditions:

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(1) All loans shall be evidenced by notes signed by the borrowing member. A loan shall not be made to a member if it would cause the member to become indebted to the credit union in an aggregate amount in excess of ten percent (10%) of the total unimpaired shares and surplus.

(2) Unsecured loans shall not exceed five percent (5%) of the current assets of the credit union. The board of directors shall establish written lending policies and maintain such policies on file in the credit union. For the purposes of this section, an assignment of shares or the endorsement of a note is considered security.

(3) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the terms of the loan contract may provide for seasonal amortization.

(4) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as provided in subdivision (3). When the amount of a loan is at least two hundred fifty thousand dollars (\$250,000), the fair cash value of real estate security shall be determined by a written appraisal made by one (1) or more qualified state licensed or certified appraisers designated by the board of directors. The credit union loan folder for real estate mortgage loans shall include, when applicable:

- (A) the loan application;
- (B) the mortgage instrument;
- (C) the note;
- (D) the disclosure statement;
- (E) the documentations of property insurance;
- (F) an appraisal on the real estate for which the loan is made;
- and
- (G) the attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.

(5) The total unpaid balance of all loans authorized by this subdivision shall, at no time, exceed thirty-three and one-third percent (33 1/3%) of the total assets of the credit union at the time

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the loans are granted. This section does not limit unpaid balances secured by adjustable rate mortgages or loans with a remaining maturity of five (5) years or less. Loans made upon security of real estate are subject to the following restrictions:

(A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.

(B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (6), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed ninety percent (90%) of the fair cash value of the real estate used as security, unless the excess of any loan over the authorized percentage of fair cash value is guaranteed or insured by a government agency or a private insurer authorized to engage in such business in Indiana.

(C) Real estate loans on unimproved real estate may be made. ~~only if such real estate is included as additional security on eligible improved residential real estate; or the funds borrowed will be used for the construction of improvements that will make such real estate eligible as security and the funds will be advanced as the work progresses.~~ The terms of the loan shall:

(i) ~~require the payment~~ **substantially equal payments** of interest ~~and principal at least annually; shall successive intervals of one (1) year or less;~~

(ii) ~~mature within five (5) ten (10) years; and shall~~

(iii) ~~not exceed seventy-five percent (75%)~~ **eighty-five percent (85%)** of the fair cash value of the real estate used as security. ~~The fair cash value for purposes of this clause shall be based upon the condition of the real estate after such improvements have been made.~~

(D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (3).

**(E) Real estate loans may be made for the construction of improvements to real property. Funds borrowed may be**

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**advanced as work on the improvements progresses.**

**Repayment terms must comply with subdivision (3).**

(6) Subject to the limitations of subdivision (4), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered savings associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or federal credit unions.

(7) A credit union may participate with other financial institutions in making loans to credit union members and may sell a participating interest in any of its loans. However, the credit union may not sell more than ninety percent (90%) of the principal of participating loans outstanding at the time of sale.

(c) Nothing in this section prevents any credit union from taking an indemnifying or second mortgage on real estate as additional security.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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